

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ABBOTT LABORATORIES and
ADVANCED CARDIOVASCULAR
SYSTEM, INC.,

Plaintiffs,

V.

JOHNSON AND JOHNSON, INC. and
CORDIS CORPORATION,

Defendants.

Civil Action No. 06-613-SLR

STIPULATED ORDER

WHEREAS, on December 13, 2006, defendants moved to dismiss for lack of subject matter jurisdiction (the "Motion to Dismiss") (D.I. 14);

WHEREAS, the parties most recently stipulated to a briefing schedule where, following a period of discovery to be taken on issues related to the motion to dismiss, plaintiffs' answering papers would be due on April 4, 2007, and defendants' reply papers would be due on May 2, 2007;

WHEREAS, on March 26, 2007 and March 30, 2007, the Court of Appeals for the Federal Circuit released opinions in *SanDisk Corp. v. STMicroelectronics, Inc.*, No. 05-1300 (Fed. Cir. March 26, 2007); and *Teva Pharmaceuticals USA, Inc. v. Novartis Pharmaceuticals Corp.*, No. 06-1181 (Fed. Cir. March 30, 2007), which cases recognized a change of the standard applicable to a determination of subject matter jurisdiction in a

patent declaratory judgment action as a result of the United States Supreme Court's decision in *Medimmune, Inc. v. Genentech, Inc.*, 127 S. Ct. 764 (2007);

WHEREAS, defendants' motion was filed with reference to the law as it existed prior to the opinions in *Medimmune*, *SanDisk* and *Teva*, and defendants propose to file an amended opening brief that addresses these cases before plaintiffs file their response;

WHEREAS, defendants do not seek the opportunity to file an amended opening brief for the purpose of submitting new declarations with their opening brief, and do not intend to do so; now therefore

IT IS HEREBY STIPULATED AND AGREED, subject to the approval and order of the Court, that the parties shall brief the Motion to Dismiss as set forth below:

Defendant will file an amended opening brief on April 26, 2007;

Plaintiffs will file their response on May 17, 2007;

Defendants will file their reply on May 31, 2007.

RICHARDS LAYTON & FINGER

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SO ORDERED this _____ day of _____, 2007.

Chief Judge

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